



# SOUTHWESTERN WATER CONSERVATION DISTRICT

## 2021 State Legislative Update: [April 5, 2021](#)

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Below is a summary of 2021 water-related legislation under consideration by the Colorado General Assembly. These summaries generally apply to the bills as introduced.

Click on the bill number to view the most recent bill language and other information.

The Colorado Water Congress (CWC) State Affairs Committee met on April 5<sup>th</sup>. **Positions taken on bills are in red text for CWC and green text for SWCD.**

### THE FOLLOWING BILLS HAVE NOT YET BEEN CONSIDERED BY SWCD.

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#### [SB21-220](#) Reverse Transfers from Severance Tax Operational Fund

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**SWCD Position:** Discussion

**CWC Position:** Discussion

**Sponsors:** Senate (Hansen, Rankin), House (Herod)

**Committee of Reference:** Senate Appropriations

**Bill Status:** Passed out of Senate Appropriations and referred unamended to Senate Floor.

**Title:** Concerning the stabilization of revenue in the severance tax operational fund by returning money that was transferred to natural resources and energy grant programs.

**Summary:** Money in the severance tax operational fund is primarily used for two purposes. The General Assembly annually appropriates money from the operational fund for several core departmental programs. If money remains after these core appropriations and the reserve requirement for the core programs is met, then the state treasurer transfers money to several funds that support natural resources and energy grant programs. (These used to be called "Tier II" programs.)

Based on recent forecasts, there will be insufficient revenue in the operational fund for even the core departmental programs. To avoid a fund deficit in the operational fund, this JBC bill reverses five transfers made in the following amounts:

\$1,998,205 for the Species Conservation Trust Fund (SCTF);

\$1,600,964 for CPW's aquatic nuisance species (ANS) fund;

\$219,803 for the CWCB's water efficiency grant program cash fund;

\$297,759 for the Inter-Basin Compact Committee's (IBCC) operating fund; and

\$3,996,410 for the water supply reserve fund (WSRF).

**Comments:**

### THE FOLLOWING BILLS HAVE ALREADY BEEN CONSIDERED BY SWCD.

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#### [SB21-034](#) Water Resources Financing Enterprise **(POSTPONED INDEFINITELY)**

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**SWCD Position:** Monitor

**CWC Position:** No Position

**Sponsors:** Senate (Coram)

**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Postponed indefinitely by the Senate Agriculture and Natural Resources Committee.

**Title:** Concerning the creation of an enterprise that is exempt from the requirements of section 20 of article X of the state constitution to administer a fee-based water resources financing program.

**Summary:** This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."

Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.

**Comments:**

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**SB21-054 Transfers for Wildfire Mitigation and Response (PASSED & SIGNED BY GOVERNOR)**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** Senate (Hansen/Rankin) House (McCluskie)

**Committee of Reference:** Senate Appropriations

**Bill Status:** Passed and signed by the governor.

**Title:** Concerning transfers from the general fund to cash funds to be used to address wildland fires, and, in connection therewith, making an appropriation.

**Summary:** SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.

- Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.
- Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as
  - State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and
  - To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

**Comments:**

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**SB21-087**      **Agricultural Workers' Rights**

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**SWCD Position:**    **Oppose****CWC Position:**    **Discussion****Sponsors:**        Senate (Danielson), House (McCormick, Caraveo)**Committee of Reference:**    Senate Business, Labor & Technology; Senate Appropriations**Bill Status:**        Passed out of Senate Business, Labor & Technology as amended on March 17<sup>th</sup> and referred to Senate Appropriations.**Title:**                Concerning agricultural workers' rights.**Summary:**            This lengthy and detailed bill removes the historical exemption of agricultural labor from state and local labor and minimum wage laws. It also provides detailed directions and limitations on farm-labor operations including, among others:

- Specifies meal breaks and rest periods,
- Even specifically prohibits use of the short-handled or long-handled hoes,
- Creates an agricultural work advisory committee to study and analyze agricultural wages and working conditions and
- Creates an appeal process and enforcement actions, including minimum penalties, for aggrieved agricultural employees, whistleblowers, and key service providers.

**Comments:**

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**SB21-164**      **Uniform Easement Relocation Act (POSTPONED INDEFINITELY)**

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**SWCD Position:**    **Oppose****CWC Position:**    **Oppose****Sponsors:**        Senate (Gardner)**Committee of Reference:**    Senate Agriculture & Natural Resources**Bill Status:**        Postponed indefinitely by Senate Agriculture and Natural Resources.**Title:**                Concerning the "Uniform Easement Relocation Act".**Summary:**            The bill would enact the "Uniform Easement Relocation Act," drafted by the Uniform Law Commission. The bill sets procedures to relocate most easements. Nearly half of this lengthy bill outlines what must not be done in order to relocate an easement.**Comments:**

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**SB21-189**      **Colorado Water Conservation Board Construction Fund Project**

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**SWCD Position:**    **Support****CWC Position:**    **Support****Sponsors:**        Senate (Donovan), House (Arndt)**Committee of Reference:**    Senate Agriculture and Natural Resources**Bill Status:**        Passed as amended out of Senate Agriculture and Natural Resources Committee and referred to Senate Appropriations.**Title:**                Concerning the funding of Colorado Water Conservation Board projects, and, in connection therewith, making an appropriation.

**Summary:** SB 189 is the annual construction fund bill for CWCB projects' authorizations. In addition to a pared-down list of authorized operations expenditures (e.g., weather modification, flood plain mapping), this year's bill allows a transfer of up to \$2,000,000 to the interstate litigation fund. It also authorizes the CWCB to make a loan up to \$3,000,000 to assist the confined aquifer recovery project in the San Luis Valley. Finally, in a much shorter than normal projects' bill, Section 7 conditionally reinstates funding for the water efficiency grant program with \$550,000 annually if the general assembly chooses not to spend 100% of the money in the operational fund on core departmental programs.

**Comments:**

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**HJR21-1002 Water Projects Eligibility Lists (PASSED & SIGNED BY THE GOVERNOR)**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Arndt), Senate (Donovan)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed and signed by the governor.

**Title:** Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.

**Summary:** See bill text for full fund eligibility lists.

**Comments:**

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**HB21-1008 Forest Health Project Financing**

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**SWCD Position:** Support as amended

**CWC Position:** Support

**Sponsors:** House (Arndt/Catlin), Senate (Cooke/Hansen)

**Committee of Reference:** House Agriculture, Livestock & Water, House Finance

**Bill Status:** Passed out of the House as amended and scheduled for consideration by Senate Agriculture and Natural Resources Committee on April 15<sup>th</sup>.

**Title:** Concerning increased options for financing forest health projects, and, in connection therewith, financing wildfire mitigation treatments.

**Summary:** HB 1008 provides additional options for financing forest health projects by authorizing:

- Creation of special improvement districts by a combination of local governments,
- Special assessments on property specially benefited by the improvement district, including forest health projects,
- Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the Southwestern Water Conservation District to participate in and finance forest health projects; and
- A forest improvement district to use sales tax revenue for forest health projects.

The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.

**Comments:**

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**HB21-1043**     **Study Underground Water Storage Maximum Beneficial Use**

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**SWCD Position:** Monitor**CWC Position:** Support**Sponsors:** House (Holtorf), Senate (Sonnenberg)**Committee of Reference:** House Agriculture, Livestock & Water**Bill Status:** Passed as amended out of House Agriculture, Livestock and Water Committee and House Finance Committee, and referred to House Appropriations.**Title:** Concerning a study of underground water storage to maximize the beneficial use of water within Colorado.**Summary:** This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;
- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations

**Comments:**

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**HB21-1046**     **Water Share Right Mutual Ditch Corporation**

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**SWCD Position:** Monitor**CWC Position:** Support**Sponsors:** House (Arndt/Catlin), Senate (Fields/Sonnenberg)**Committee of Reference:** House Agriculture, Livestock & Water**Bill Status:** Passed out of the House as amended and scheduled for consideration by Senate Agriculture and Natural Resources Committee on April 15<sup>th</sup>.**Title:** Concerning the use of a water right obtained through a mutual ditch corporation.**Summary:** The House Ag. Committee unanimously voted to adopt the sponsors' amendment rewriting the entirety of HB21-1046. The strike below (SBEC) amendment resulted from extensive stakeholder outreach and collaboration at the State Affairs Committee of CWC. The resulting SBEC amendment reflects a consensus compromise for a workable bill addressing the most troubling elements of recent water court rulings. The amended bill clarifies that, subject to the Articles of Incorporation and Bylaws of the corporation:

- When stockholder demand exceeds supply, mutual ditch corporations may limit or otherwise rotate delivery of water ratably among the stockholders;
- When a stockholder is not using some of or all of the available water under the stockholder's shares, the remaining stockholders

taking delivery of water through the ditch may use any unused portion of the water that would otherwise have been available to that stockholder's shares, absent certain exceptions; and

- The provision is not intended to prevent a stockholder from changing the use of the water rights represented by the stockholder's shares, create any impediments to changes in use, affect storage water rights, or change the standards for water court approval to change a water right.

**Comments:**

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**[HB21-1105](#) Low-Income Utility Payment Assistance Contributions**

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**SWCD Position:** Support

**CWC Position:** No action

**Sponsors:** House (Kennedy), Senate (Hansen)

**Committee of Reference:** House Finance

**Bill Status:** Passed out of House Finance Committee as amended and referred to House Appropriations.

**Title:** Concerning utility customers' financial contributions for low-income utility assistance.

**Summary:** This 17-section bill has several water-related elements. Section 1 removes the low-income energy assistance program (LEAP) from the "tier 2" severance tax operational fund money, something the water community has advocated for years. Later sections provide for voluntary, opt-in charges that a water utility may offer its customers to help finance a water utility bill payment assistance program. Alternatively, HB 1105 allows a water utility to implement its own water utility bill payment assistance program.

**Comments:**

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**[HB21-1226](#) More Robust Check Station Aquatic Nuisance Species**

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**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Esgar, Will), Senate (Coram, Donovan)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Scheduled for House Agriculture, Livestock, and Water Committee on April 8<sup>th</sup>.

**Title:** Concerning additional measures to control aquatic nuisance species, and, in connection therewith, prohibiting a person from refusing to stop at a check station and directing the division of parks and wildlife to report to the general assembly regarding implementation of the act.

**Summary:** Current law allows qualified peace officers to stop a conveyance, including a boat trailer and a boat, and inspect the conveyance for the presence of aquatic nuisance species before the boat is launched onto waters of the state and before departing from the waters of the state or a vessel staging area, and to impound and quarantine a conveyance that is contaminated until it is decontaminated. Authorized agents can detain and inspect conveyances but cannot impound or quarantine conveyances. Section 1 of the bill directs the division of parks and wildlife in the department of natural resources to investigate the methods that other states are using with respect to the location and operation of check stations and report regarding its investigation

and the operation of check stations pursuant to the bill to the general assembly's committees with jurisdiction over wildlife. Section 2 authorizes a qualified peace officer to stop and inspect for the presence of aquatic nuisance species a conveyance that has encountered an aquatic nuisance species check station. Section 3 prohibits a person who encounters a check station from failing or refusing to stop at the check station while transporting a conveyance during the check station's hours of operation without presenting the conveyance for inspection.

*(Note: This summary applies to this bill as introduced.)*

**Comments:**

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<b>HB21-1233</b>	<b>Conservation Easement Tax Credit Modifications</b>
<b>SWCD Position:</b>	Monitor
<b>CWC Position:</b>	Discussion
<b>Sponsors:</b>	House (Roberts, Will), Senate (Donovan, Winter)
<b>Committee of Reference:</b>	House Agriculture, Livestock & Water
<b>Bill Status:</b>	Passed out of House Agriculture, Livestock, and Water Committee and referred unamended to House Finance Committee.
<b>Title:</b>	Concerning modifications to the requirements for claiming an income tax credit for the donation of a perpetual conservation easement.
<b>Summary:</b>	HB 1233 makes numerous changes affecting claims for an income tax credit for the donation of a perpetual conservation easement. The proposed changes are generally favorable and clarifying for potential easement donors.
<b>Comments:</b>	

Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely. Beth Van Vurst, SWCD General Counsel, and Chris Treese, lobbyist, ensure the views and priorities of southwestern Colorado are considered as the State legislature enacts new laws affecting water resources.

SWCD staff provides this written summary of water-related legislation, updated throughout the session via email to interested stakeholders and public. To be added to the list, please contact [lauras@swwcd.org](mailto:lauras@swwcd.org). We hope that you find the updates beneficial and informative.